IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO.128 OF 2004

The Commissioner of Income-tax,
City-6, Mumbai. .. Appellant

v/s.

M/s.Khandelwal Laboratories Ltd. .. Respondent

Mr.R.Asokan i/by Mr.H.D.Rathod for appellant.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 17th December, 2004

P.C.

In the memo of appeal, two questions of law have been proposed viz.

(i) Whether on the facts and in the circumstances of the case the Tribunal was right in law in holding that the amount of Rs.17,00,000/- received by its assessee on surrender of tenancy rights would not fall within the purview of section 10(3) nor would capital gains which arise in case of transfer of assets whose cost of acquisition could not be computed fall under the head "Income from other sources"?

(ii) Whether on the facts and in the circumstances of the case the Tribunal was right in law in confirming the order of the CIT(A) in deleting the

addition of Rs.9,47,774/- made by the Assessing Officer to the closing stock on account of unutilised Modvat Credit?

2. In so far as proposed question No.(ii) is concerned, it stands now concluded by the judgment of the Supreme Court in the case of Commissioner of Income Tax v. Indo Nippon Chemicals Co.Ltd., 249 ITR 265.

3. As regards proposed question No. (i), the said question stands concluded by the Division Bench judgment of this court in the case of Cadell Weaving Mill Co.Pvt.Ltd. (249 ITR 265). The learned Counsel for the revenue submits that the said judgment is under challenge before the Supreme Court.

4. Even if that be so, in so far as we are concerned, the issues stand concluded by the Division Bench judgment of this court.

5. No substantial question of law arises.

Dismissed.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)